



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

William E. Christie, Esq.  
Shaheen & Gordon, PA  
107 Storrs Street  
Concord, New Hampshire, 03302-2703

MAR 20 2018

RE: MUR 7131  
Susan D. Mayer

Dear Mr. Christie:

On September 1, 2016, the Federal Election Commission notified your client, Susan D. Mayer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 20, 2016, the Commission notified your client of a supplemental complaint in this matter. Copies of the complaint and supplemental complaint were provided to your client at that time. On March 6, 2018, the Commission found, on the basis of the information in the complaint and supplemental complaint, and information provided by Susan D. Mayer, that there is no reason to believe that Susan D. Mayer violated 52 U.S.C. § 30116(a). Accordingly, the Commission closed its file in this matter.

Documents related to this case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters. 81 Fed. Reg. 50,702 (August 2, 2016). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Allen".

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Susan D. Mayer

MUR 7131

### I. INTRODUCTION

The Complainant alleges that Representative Carol Shea-Porter and Carol Shea-Porter for Congress ("Committee") coordinated with Susan D. Mayer, a Shea-Porter congressional staffer, and Senior Votes Count ("SVC"), a non-connected committee, regarding a \$3,110 contribution that Mayer made to SVC.<sup>1</sup>

Mayer denies the coordination allegations, which are not supported by the available information. For the reasons below, the Commission finds that there is no reason to believe that Mayer made an excessive contribution to SVC or the Committee.

### II. FACTUAL AND LEGAL ANALYSIS

#### A. Factual Background

Shea-Porter was a candidate for reelection in the First Congressional District of New Hampshire in 2014,<sup>2</sup> and Carol Shea-Porter for Congress is her principal campaign committee. During the 2014 election cycle, Susan Mayer was a part-time staffer in Shea-Porter's congressional district office in New Hampshire and volunteered part-time on her re-election campaign.<sup>3</sup> SVC disclosed the receipt of a \$3,110 contribution from Mayer on October 29,

<sup>1</sup> Additionally, Complainant alleges that by making the resulting contribution to the Committee, Mayer violated the ethics rules of the U.S. House of Representatives and a federal statute, 18 U.S.C. § 603, prohibiting a congressional staffer from donating, directly or indirectly, to his or her employer's campaign. Compl. at 1. The Commission does not have jurisdiction over violations of 18 U.S.C. § 603.

<sup>2</sup> Representative Shea-Porter lost her reelection bid on November 4, 2014. She ran again in 2016 for the same Congressional seat, and was elected on November 8, 2016.

<sup>3</sup> Mayer Resp. at 1. See <http://congressional-staff.insidegov.com>.

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2014, which was transmitted to SVC through ActBlue.<sup>4</sup> SVC disclosed Mayer's occupation and employer as "Not-Employed" and "N/A," respectively.<sup>5</sup> ActBlue, however, disclosed Mayer's occupation and employer as "Congressional Staffer" and "U.S. House of Representatives," respectively.<sup>6</sup> Also on October 29, 2014, SVC paid \$3,000 for two radio advertisements on behalf of Shea-Porter, according to an untimely 24-Hour Report of independent expenditures SVC filed on December 2, 2014.

## **B. Legal Analysis**

### **1. Coordination**

Under the Act, an expenditure made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his or her authorized political committees, or their agents, is considered a contribution to such candidate.<sup>7</sup> Communications that are paid for by a third party, but coordinated with a candidate, are also in-kind contributions to the candidate.<sup>8</sup> Under Commission regulations, a communication is coordinated if it: (1) is paid for by a third party; (2) satisfies one of five content standards set forth at 11 C.F.R. § 109.21(c);<sup>9</sup> and (3) satisfies one of six conduct standards set forth at 11 C.F.R. § 109.21(d).<sup>10</sup>

<sup>4</sup> SVC 2014 Post-General Election Report at 6 (Dec. 4, 2014). ActBlue is a non-connected committee that acts as an intermediary for individual contributions made on its website to Democratic candidates and to political committees.

<sup>5</sup> SVC 2014 Post-General Election Report at 6.

<sup>6</sup> ActBlue 2014 Post-General Election Report at 329,743 (Dec. 4, 2014).

<sup>7</sup> 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(a). The Act prohibits a candidate or political committee from knowingly accepting contributions in violation of the contribution limits set forth in the Act. 52 U.S.C. § 30116(f).

<sup>8</sup> 11 C.F.R. § 109.20.

<sup>9</sup> The content standards are a communication that is an electioneering communication; a public communication that disseminates, distributes, or republishes, in whole or in part, campaign material prepared by a candidate or the candidate's authorized committee; a public communication that expressly advocates the election or

Complainant alleges that Shea-Porter and the Committee coordinated with Mayer and SVC regarding Mayer's contribution that she earmarked for the Committee, resulting in an excessive contribution to the Committee.<sup>11</sup> In support, the Complaint alleges that Mayer and SVC representatives appeared at a Shea-Porter campaign event, and that there are professional relationships among SVC representatives, Mayer, and Shea-Porter.<sup>12</sup>

Mayer asserts that there is no evidence of coordination by her with other respondents.<sup>13</sup> Mayer denies that she earmarked a contribution to the Committee through SVC, and thus, made an excessive contribution to the Committee. Mayer asserts that she made a contribution to SVC that was less than the \$5,000 limit.<sup>14</sup> Mayer argues that she did not attempt to hide her employment with Shea-Porter as ActBlue accurately reported her employment information.<sup>15</sup> Mayer also denies that she is in a photograph of a Shea-Porter campaign event that the Complainant submitted as proof of coordination.<sup>16</sup>

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defeat of a clearly identified candidate for Federal office; a public communication referring to various types of federal candidates or to political parties that satisfies the requirements of 11 C.F.R. §§ 109.21(c)(4)(i), (ii), (iii) or (iv); and a public communication that is the functional equivalent of express advocacy. See 11 C.F.R. § 109.21(c).

<sup>10</sup> The conduct standards listed in 11 C.F.R. § 109.21(d) are: (1) request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee; and (6) republication.

<sup>11</sup> Compl at 1.

<sup>12</sup> *Id.* at 8, 10.

<sup>13</sup> Mayer Resp. at 5.

<sup>14</sup> *Id.* at 2, 4. The Act permits a person to contribute up to \$5,000 per calendar year to other political committees that are not the national or state committees of a political party. 52 U.S.C. § 30116(a)(1)(C).

<sup>15</sup> Mayer Resp. at 4.

<sup>16</sup> *Id.* at 3.

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SVC's payment for the radio ads in support of Shea-Porter satisfies the payment prong, and the communication's nature satisfies the content prong.<sup>17</sup> As to the conduct prong, the Complaint relies on the alleged professional relationships among the various respondents, and the attendance by Mayer and representatives of other respondents at a Shea-Porter campaign event. This information, standing alone, does not satisfy any of the conduct standards set forth in 11 C.F.R. § 109.21(d).<sup>18</sup>

Accordingly, the Commission finds that there is no reason to believe that Susan D. Mayer violated 52 U.S.C. § 30116(a) by making an excessive contribution to SVC or the Committee.

<sup>17</sup> See 11 C.F.R. § 109.21(a)(1). The content prong is satisfied because the radio ads are public communications that clearly identify a federal candidate, Shea-Porter, fewer than 90 days before the candidate's election. See 11 C.F.R. § 109.21(c)(4)(i).

<sup>18</sup> 11 C.F.R. § 109.21(d).